

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

EDGAR SANDOVAL ROJAS
A/K/A EDGAR ROJAS,
Plaintiff,

vs.

UNITED STATES OF AMERICA, et al.,
Defendants.

Case No. 1:21-cv-190

McFarland, J.
Litkovitz, M.J.

**REPORT AND
RECOMMENDATION**

This matter is before the Court on the parties' joint motion to dismiss defendant Progressive Direct Insurance Company a/k/a Progressive Insurance Company a/k/a Progressive and defendant Gary Moore without prejudice. (Doc. 13).

Plaintiff brings this case under the Federal Torts Claim Act (FTCA), 28 U.S.C. § 2671 *et seq.* Plaintiff alleges that he was injured by an employee of the United States Postal Service during an automobile collision. Plaintiff names as defendants the United States of America, Postal Service employee Gary Moore, and Progressive Direct Insurance Company a/k/a Progressive Insurance Company a/k/a Progressive, the provider of uninsured and/or underinsured motorist coverage to plaintiff. (Doc. 1).

In the joint motion, the parties state that there is no uninsured/underinsured motorist's coverage or medical payments coverage available to plaintiff pursuant to his policy of insurance with defendant Progressive on the vehicle in question involved in this accident and, therefore, Progressive is not a necessary party to this case at this time.

In addition, the United States of America has answered and admitted in its answer that defendant Gary Moore was an employee of the United States Postal Service and was working in course and scope of his employment at the time of the subject collision. (Doc. 7). Accordingly,

the United States is the only permissible party defendant in this FTCA action. The parties request that defendant Progressive Direct Insurance Company a/k/a Progressive Insurance Company a/k/a Progressive and defendant Gary Moore be dismissed without prejudice. All other claims and parties remain in this case. For good cause shown, the motion should be granted.

It is therefore **RECOMMENDED** that this case be **DISMISSED** without prejudice **against defendant Progressive Direct Insurance Company a/k/a Progressive Insurance Company a/k/a Progressive and defendant Gary Moore.** All claims against defendant United States of America remain pending.

Date: 7/15/2021


Karen L. Litkovitz
United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation (“R&R”) within **FOURTEEN (14) DAYS** after being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **FOURTEEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).